

**PUBLIC MEETING
December 21, 2010
MINUTES**

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioner Derek Brown and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included: Eric Bryson, Kelly Blake, K. Paul Stahl, Jeremy Gersovitz, Lindsay Morgan, Carrie Severson, Kyle Thomas, Paul Spengler, Pat McKelvey, Mark Simonich, Tyler Emmert, Jim Taylor, Kim Smith, Dean Retz, Tom Beck, Mike Opar, Art Thompson, Butch Kroll, Rocky Infanger, Ralph Elrod, Fred Hansen, Noah and Penny Horan, John Huston, Roxa Reller, James Schneider and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

- a. Resolution 2010-353 Ordering a Refund of Taxes/Fees/Assessments Paid by Dolores M. Johnson in the Amount of \$507.06. (Cheryl Green)
- b. Resolution 2010-354 Ordering a Refund of Taxes/Fees/Assessments Paid by Tonya Hilbig in the Amount of \$91.74. (Cheryl Green)
- c. Resolution 2010-355 Ordering a Refund of Taxes/Fees/Assessments Paid by Broken O Ranch in the Amount of \$27.92. (Cheryl Green)
- d. Contract Between Lewis & Clark County and Tetra Tech to Revise Pre-Disaster Mitigation Plans for Lewis & Clark and Jefferson Counties in the Amount of \$30,000. (Paul Spengler)
- e. Professional Services Contract Between Lewis & Clark County and Great West Engineering for Final Design of County Landfill Phase III Lateral Expansion Project in an Amount Not to Exceed \$167,653. Contract Period: Dec. 31, 2010 – Jan. 1, 2012.
- f. Resolution 2010-356 Declaring County Property Surplus Property. (Amy Reeves)

Eric Bryson reported on the consent action items and recommended approval.

No public comments were received.

Commissioner Hunthausen moved approval of the consent agenda and authorized the Chair to sign. Commissioner Brown seconded the motion. The motion carried 3-0.

Requested Rate Increase for the Wolf Creek/Craig Fire Service Area. (Carrie Severson) (Cont'd. from 12-14-10) Decision.

Commissioner Brown stated that the county made every effort to inform citizens about the rate hearing, but some people said they were missed. He made a motion to reopen the public hearing. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Ms. Severson discussed the protocol used in sending notification of the proposed increase to landowners.

Rocky Infanger, Chief of the Wolf Creek/Craig Fire Service Area. The FSA has requested an increase on the fee of structures only.

John Huston, DNRC Unit Fire Supervisor, Helena. The DNRC handles structure protection, not suppression. He discussed the fire assessments program. If a landowner is in a forest fire protection district they are required to pay this assessment. The other form is an affidavit unit where landowners have the choice to receive protection from a wildland fire agency. The assessment is similar to a sliding scale based on acres owned. Lands not protected by the DNRC come under mutual aid. Maps are available at DNRC for the Wolf Creek/Craig Fire Service Area.

Public hearing -

Mike Opar, 421 Graham (Craig property owner). How many general structure fires have there been in that area and how many have been saved?

Art Thompson, Wolf Creek FSA. Response depends on whether there is someone at the fire hall and if equipment is available.

No other comments were received.

Commissioner Brown moved to extend written testimony until Monday, December 27 at 5 p.m. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Commissioner Brown moved to render final decision on Tuesday, December 28. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

A rate schedule was made available to the public. There was concern about whether or not the rate schedule proposed was equitable. Commissioner Brown explained alternate formulas for the public's consideration. Since it has been nearly 15 years without any kind of an adjustment, the county also looked at the Consumer Price Index to address the inflation rate.

Public Hearing. Resolution 2010-357 to Create A County Rural Improvement District for Crestwood Estates Number 2010-2. (Carrie Severson) The Commission will consider comments on the creation of a District to fund road improvements within the Crestwood Green Estates Subdivision.

Carrie Severson reported that the proposed work includes pothole patching, culvert cleaning and miscellaneous maintenance. The cost of the work is approximately \$12,478 per year. The method of assessment that was chosen is in each lot, tract or parcel of land in the district is to be charged an equal amount based upon the total cost of the improvement. There are 38 lots within this proposed RID. The presentation

showed the breakdown of costs, including the statutory 5 percent administration fee. This comes out to about \$328 per property per year. One protest was received which was not sufficient protest to bar proceedings.

This RID stems from a settlement in a lawsuit over the roads within this district. A Memorandum of Understanding between the county and the Crestwood Green Estates LLC homeowners' association was developed to address maintenance issues.

Deputy County Attorney, K. Paul Stahl, provided further information about the lawsuit. The homeowners alleged that the roads were not public and an agreement was reached that would allow them the opportunity to petition to create an RID and then also create a county road.

Public hearing -

Tom Beck, 715 Crestwood Lane. How to opt out of the Applegate RID, he does not feel he is a benefitting property owner.

Mr. Stahl said a written request would be sufficient, not specifically a petition, and submit it asking Ms. Severson to re-examine the Applegate RID.

James Schneider, President, Crestwood Green Estates Housing Association. Consider all 9 lots rather than requesting 9 separate reviews.

Commissioner Hunthausen moved to render a decision on Thursday, December 23 at our regularly scheduled public meeting. Commissioner Brown seconded the motion. The motion carried 3-0.

Public Hearing. Resolution 2010-319 Declaring Crestwood Lane, Rosewood Drive, Silverwood Loop, Foxwood Court and a Portion of Norris Drive as County Roads.
(Carrie Severson) The Commission will consider comment on the resolution.

Carrie Severson reported that a petition was received to establish county roads within the Crestwood Green Estates Subdivision. The corner of Silverwood Loop from Crestwood (from the gate to the subdivision) was an area of concern that has been addressed through the Memorandum of Understanding, and would be further addressed through the Rural Improvement District. The costs associated with establishing county roads in this area for repairs would also be addressed in the MOU and the RID process.

Staff recommended tabling the decision for the road establishment until the Rural Improvement District has been established in order to meet the conditions of the Memorandum of Understanding.

Public hearing –

James Schneider, 6575 Rosewood Drive, President, Crestwood Green Estates Housing Association. During settlement discussions with the county, it was assumed that the maps used were included that length of Norris Road. The focus was within the Crestwood Green neighborhood.

Tom Beck, 715 Crestwood Lane. This small section of road is the second ingress and egress to the subdivision. Three lots north of Norris may have been approved for a minor subdivision. He would like to see them included in the road maintenance program.

Hearing no other comments, the public hearing was closed.

Kelly Blake stated that Paradise Subdivision, north of Norris Road, have received preliminary approval. When it is time for final plat it would be subject to discussions as part of the overall picture with Applegate and Crestwood RIDs.

Commissioner Brown moved to table this until the commission renders a decision on the RID on December 23rd. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Break 10-10:10 a.m.

Request for Modification of Conditions of Approval #5b and #10c and Original Site Plan, Lot B-1A - End of the Line Minor Subdivision. (Applicants: Noah and Penny Horan) (Planner: Michael McHugh) A proposed modification to the End of the Line Minor Subdivision Conditions of Approval #5b, #10c and the original site plan, as outlined in the Staff Report dated July 15, 2008. The property is located north of Craig and west of the Interstate on the frontage road, in between the frontage road and the Missouri River.

Michael McHugh presented the staff report. The applicant has requested modifications of the conditions of approval for this 3-lot minor subdivision. (1) condition 5.b. to only require an 18-foot driving surface instead of a 24-foot driving width; (2) condition 10.c. dealing with the setback requirement that prohibits construction or disturbance within 250 feet of the Missouri River. They want to modify that to 150 feet; and (3) clarify language on the approved preliminary site plan to shorten the road to approximately 85 feet in length. Staff recommended that the commission consider setting a public hearing date to modify the requested conditions and site plan.

Noah and Penny Horan discussed the reasons for the modifications. In condition 10.c they asked for clarification regarding the existing structure – to remove it, rebuild it, or expand it.

No other comments were received.

Commissioner Brown moved to authorize moving ahead and holding a public hearing. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

The applicants were reminded that the testimony they made today would have to be made at the next hearing.

Public Hearing. Amended Plat of Lots 11B2A-3, 4, & 5 - Big Valley Subdivision (North Forty Subdivision). (Planner: Lindsay A. Morgan) (Applicant: Larry Kim Smith) The Commission will consider a request to modify the conditions of approval for the preliminarily approved subdivision. In addition, the Commission will consider three variance requests from the 2005 County Subdivision Regulations: (1) fire protection, (2) approach permit at Lincoln Road and Applegate Drive; and (3) construction of Jeanne Road. The 14-lot, single family residential subdivision is located east of Applegate Drive, south of and adjacent to Jeanne Road, and west of and adjacent to Rancho Deluxe Drive.

Lindsay Morgan. The applicant has requested modification of four conditions of approval -- Condition 6, fire protection; Condition 9, approach permit at Lincoln Road and Applegate Drive; Condition 11, improvements to Applegate Drive; and Condition 12, improvements to Jeanne Road.

In addition to the proposed modifications, the applicant has requested three variances from the 2005 County Subdivision Regulations. Condition of Approval 6, instead of providing an on-site water source for fire protection, the applicant has requested utilizing an off-site source -- a fire tank located within the Grand Valley Estates Subdivision, aka Lincoln Road RV Park. According to the Fire Chief for the West Helena Valley Fire District, the fire district would accept an off-site source for the subdivision as long as the source meets certain criteria as noted in the staff report. Conditions 9 and 11, instead of constructing Applegate Drive to paved county standards typical section no. 2, the applicant has requested that this requirement be removed. Condition 12, instead of constructing Jeanne Road to county standards typical section no. 2 the applicant has requested that this requirement also be removed. The road has been certified as meeting typical standard no. 1 gravel road standard.

Kim Smith, 7510 Applegate Drive. This project was submitted under the 2005 county regulations. The regulations at that time did not require the improvement of offsite roads. He did not agree that a variance was necessary for Applegate Road because it was not adjacent to or part of this subdivision. A variance for Jeanne Road was also not necessary because it is not over the 400 trips per day threshold going in either direction.

Fred Hansen, 806 N. Terrace Road (Northstar PUD). Opposed the change for Jeanne Road, condition 12. The residents deal with excessive amounts of commercial and non-commercial traffic that use Jeanne Road to Rancho, Rancho to Guthrie and out to North Montana as a short-cut route.

No other public comments were received.

Kim Smith suggested that the commission consider creating an RID north on Jeanne Road, or dust abatement would be very cost-effective. He requested that the commission postpone a decision until after January 15.

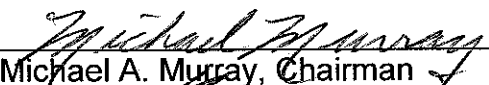
Hearing no other comments, the public hearing was closed.

Commissioner Brown moved to render a final decision on January 18. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

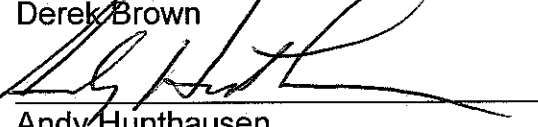
Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 11:09 a.m.

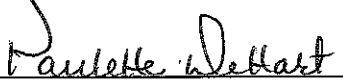
LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Derek Brown


Andy Hunthausen

ATTEST:


Paulette DeHart, Clerk of the Board